

REMARKS

Claims 23-44 are pending in this application. By this Amendment, claims 23-44 are amended. Support for amended claims 23, 41 and 42 can be found, for example, in Fig. 3. Claims 23-44 are also further amended for form. Accordingly, no new matter is added. In view of at least the following, reconsideration and allowance are respectfully requested.

Applicants note with appreciation the indication of allowable subject matter in claims 30-32 and 37-39.

I. Rejection of Claims 23-29, 34, 36 and 40-44 under 35 U.S.C. §102(e)

Claims 23-29, 34, 36 and 40-44 are rejected under 35 U.S.C. §102(e) over Peterlechner et al. (U.S. Patent No. 6,612,048). This rejection is respectfully traversed.

Peterlechner does not disclose "an unbroken rotary ring, provided with scale marks on a surface thereof, defining a pattern and readable by a readhead of the apparatus," as recited in independent claims 23, 41 and 42 (emphasis added).

Peterlechner only discloses a measuring tape 1 that has two ends that are joined to each other by an adjusting device. See, for example, col. 2, line 66 - col. 3, line 3. The adjusting device of Peterlechner breaks the measuring tape 1, which results in two ends that are separated from each other. See Peterlechner, for example, Figs. 1, 2 and 4. Thus, Peterlechner does not disclose "an unbroken rotary ring, provided with scale marks on a surface thereof, defining a pattern and readable by a readhead of the apparatus," as recited in independent claims 23, 41 and 42 (emphasis added).

Furthermore, an unbroken rotary ring would not have been rendered obvious in view of Peterlechner. Applicants submit that one of ordinary skill in the art would not have been motivated to modify the measuring tape of Peterlechner because Peterlechner teaches away from doing so. For example, the measuring tape of Peterlechner is designed such that the

manufacturer can adjust the joint of the measuring band by using the adjusting device, and is designed such that the joint can also be adjusted after assembly by a consumer.

Additionally, with respect to claim 41, Peterlechner does not disclose "wherein applying a force to the at least one intermediate member adjusts the effective radius of the unbroken rotary ring."

Peterlechner specifically states that forces applied to the elastic layer 2 do not deform the measuring tape 1 or at most cause a small amount of deformation. Importantly, Peterlechner does not disclose that the effective radius of the measuring tape 1 is adjusted. Thus, Peterlechner does not disclose "wherein applying a force to the at least one intermediate member adjusts the effective radius of the unbroken rotary ring," as recited in claim 41.

Accordingly, for at least the reasons discussed above, withdrawal of the rejection of claims 23, 41 and 42 is thus respectfully requested.

Claims 24-29, 34, 36, 40 and 43 depend from claim 23. Thus, Applicants submit that these claims are also patentable over the applied references for at least the reasons discussed above, as well as for the additional features they recite. Withdrawal of the rejection of these claims is thus respectfully requested.

II. Rejection of Claims 33 & 35 under 35 U.S.C. §103(a)

Claims 33 and 35 are rejected under 35 U.S.C. §103(a) over Peterlechner et al. (U.S. Patent No. 6,612,048). This rejection is respectfully traversed.

For reasons similar to those discussed above, Applicants submit that the use of an unbroken intermediate ring, as recited in claim 33, would not have been rendered obvious in view of Peterlechner. Furthermore, Applicants submit that claims 33 and 35 are patentable over Peterlechner for at least the dependence of these claims on claim 23, as well as for the additional features they recite. Withdrawal of the rejection of claims 33 and 35 is thus respectfully requested.

III. Conclusion

In view of at least the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Timothy S. Smith
Registration No. 58,355

JAO:TSS/tbm

Attachments:

Petition for Extension of Time
Request for Continued Examination

Date: May 21, 2007

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--